BILL NO. S-83-07-15

SPECIAL ORDINANCE NO. S-144-83

AN ORDINANCE approving a contract by the City of Fort Wayne by and through its Board of Public Works and Moellering Construction Company, Inc., for Improvement Res. #5970-83 (1983 Asphalt Resurfacing, Group 2).

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. The annexed Contract, made a part hereof, by the City of Fort Wayne by and through its Board of Public Works and Moellering Construction Company, Inc., for Improvement Res. #5970-83 (1983 Asphalt Resurfacing, Group 2), is hereby ratified and affirmed and approved in all respect. The work under said Contract requires:

resurfacing and restoring pavement as designated on the following streets: (1) St. Marys Avenue; (2) Fourth Street; (3) Van Buren St.; (4) Webster Street; (5) Main Street; (6) South Washington Rd.; (7) Belle Vista Blvd.; (8) Fernwood Ave.; (9) Dalevue Drive;

the Contract price is Two Hundred Fourteen Thousand Six Hundred Eleven and 55/100 Dollars ($214,611.55).

SECTION 2. Prior approval was received from Council with respect to this Contract on April 19, 1983. Two (2) copies of the Contract attached hereto are on file with the City Clerk, and are available for public inspection.

SECTION 3. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Samuel J. Talarico
Councilmember

APPROVED AS TO FORM
AND LEGALTIY

[signature]
Bruce O. Boxberger, City Attorney

Read the first time in full and on motion by Talarico, seconded by ______, and duly adopted, read the second time by title and referred to the Committee Public Works (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on ______, the ______ day of ______, 19___, at ______ o'clock ___.M., E.S.T.

DATE: 7-12-83 Sandra E. Kennedy
CITY CLERK

Read the third time in full and on motion by Talarico, seconded by Stier, and duly adopted, placed on its passage. PASSED ~~(LOST)~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	9				
BRADBURY	✓				
BURNS	✓				
EISBART	✓				
GiaQUINTA	✓				
SCHMIDT	✓				
SCHOMBURG	✓				
SCRUGGS	✓				
STIER	✓				
TALARICO	✓				

DATE: 7-26-83 Sandra E. Kennedy
- CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ZONING MAP) (GENERAL) (ANNEXATION)~~ (SPECIAL) Special ~~(APPROPRIATION)~~ ORDINANCE ~~(RESOLUTION)~~ NO. S-144-83 on the 26th day of July, 1983.

ATTEST: (SEAL)

Sandra E. Kennedy
CITY CLERK

Ray A. Eisbart
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 27th day of July, 1983, at the hour of 11:30 o'clock A.M., E.S.T.

Sandra E. Kennedy
CITY CLERK

Approved and signed by me this 28th day of July 1983, at the hour of 10 o'clock A.M., E.S.T.

[signature]
WIN MOSES, JR. - MAYOR

CITY PAID
SUBJECT TO COUNCILMANIC APPROVAL
PRELIMINARY MEETING 7-12-83
RATIFICATION 7-26-83

CONTRACT

73-85-30
6/22/83

This Agreement, made and entered into this 22nd day of June, 1983

by and between ---------- MOELLERING CONSTRUCTION COMPANY, INC. ----------------

---------------- 4700 INDUSTRIAL ROAD, FORT WAYNE, INDIANA --------------------

hereinafter called "Contractor" and the City of Fort Wayne, Indiana, a municipal corporation, hereinafter called "City," under and by virtue of an act of the General Assembly of the State of Indiana, entitled "An Act Concerning Municipal Corporations," approved March 6, 1905, and all amendatory and supplementary acts thereto, WITNESSETH: That the Contractor covenants and agrees to improve Improvement Resolution No. 5970-83 (1983 ASPHALT RESURFACING, GROUP 2) by resurfacing and restoring pavement as designated on the following streets: (1) St. Marys Avenue; (2) Fourth Street; (3) Van Buren St.; (4) Webster St.; (5) Main Street; (6) South Washington Rd.; (7) Belle Vista Blvd.; (8) Fernwood Avenue; (9) Dalevue Drive--

***See Improvement Resolution 5970-83 for limits of construction ***

by grading and paving the roadway to a width of XXXXXXXXXXXXX feet with XXXXXXXXXXXXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

upon a foundation and with curbing as fully set out in the specifications hereinafter referred to, in a good and workmanlike manner and to the entire satisfaction of said City, in accordance with Improvement Resolution No. 5970-83 attached hereto and by reference made a part hereof. ~~and at the following price per lineal foot~~

At the following prices:

Pavement Removal	One dollar and ninety cents per square yard	1.90
H.A.C. #9 Binder	Twenty-one dollars and eighty-five cents per ton	21.85
H.A.C. #11 Binder	Twenty-one dollars and fifty cents per ton	21.50
H.A.C. A-2 Surface	Twenty-three dollars and seventy-five cents per ton	23.75
Joint & Crack Sealer	Five hundred and ninety-six dollars and no cents per ton	596.00
Inlets - Repair, Adjust & Set to Grade	One hundred and eighty-seven dollars and no cents per each	187.00
C.B.'s - Repair, Adjust & Set to Grade	Two hundred and twenty-five dollars and no cents per each	225.00
M.H.'s - Adjust & Set to Grade	One hundred and one dollars and no cents per each	101.00
C.B.'s - Adjust & Set to Grade	One hundred and ten dollars and no cents per each	110.00
Base Total	One hundred and sixty-five thousand, nine hundred and thirty-one dollars and fifty-five cents	$165,931.55

The Contractor hereby expressly agrees to perform all the work in the prosecution of the above described improvement according to the terms and conditions of Improvement Resolution No. 5970-83 the plans, profiles, specifications and the contractor's bid therefor on file in the office of the Department of Public Works of said City, which said resolution, profile, plans and specifications are made a part of this contract as fully and effectually as if copied herein at full length, (copies of which are attached hereto).

It is hereby agreed that no assignment of this contract shall be made without the written consent of the City; said Contractor hereby covenants and agrees that said improvement shall be finally
*See Liquidated Damages Provision
and in all respects completed on or before *Sept. 1, 1983 and the Contractor agrees to pay and give to the City, as liquidated damages, the sum of $25.00 for each and every day after said date, 19___ until said work is finally completed and ready for acceptance by the City. It being also understood that in event of any conflict between this contract and the specifications, that the former shall be considered to contain the intention of the parties hereto.

It is further agreed by and between said parties, that the acceptance of the work provided for in this contract, or the payment therefor, for the whole or a part, shall not constitute a waiver on the part of the City of any of the provisions of the contract, nor shall it release said Contractor, or the sureties upon its bond for the faithful performance thereof, nor shall the acceptance be even prima facie evidence of the performance of any provisions of such contract except to the extent of entitling said Contractor to receive the price therefor. It is further understood that the failure of the City to exercise its right of inspection or rejection of material and work, or the exercise of such right shall not in any sense be considered an acceptance of any part of said work or material.

The Contractor further contracts and agrees that in the prosecution of said work all proper skill and care will be exercised, that said party will properly and fully guard all excavations and dangerous places, and will use all due and proper precautions to prevent injury to any property, person and persons, what or whomsoever. That for and during the period of the making of such improvement, and the period for which the same is to be maintained and kept in repair by the Contractor, the City shall be saved harmless from any and all liability whatsoever growing out of any injury or damage to property or persons because of any neglect or fault of the said Contractor, its agents or employees, in the execution of this contract or any matter connected therewith or related thereto and to pay any judgment with costs which may be obtained against said City, growing out of any such injury or damage.

To each of the conditions and stipulations in this contract, the undersigned bind themselves, their successors and assigns.

IN WITNESS WHEREOF, we the foregoing named parties hereunto set our hands this 22nd day of June, 1983

ATTEST:

[signature]

Corporate Secretary

Donald R. Hille

MOELLERING CONSTRUCTION CO., INC.

BY: [signature]

ITS: Carl W. Moellering President

Contractor, Party of the First Part.

City of Fort Wayne, By and Through:

[signature]

Betty R. Collins

Its Board of Public Works and Mayor.

ATTEST:

Helen V. Gochenour

Secretary and Clerk

*** ALTERNATE ***

C.B.'s (Type I-C) Complete In Place	One thousand, three hundred and fifty dollars and no cents per each	1,350.00
Inlets (Type I-C) Complete In Place	Six hundred and twenty-five dollars and no cents per each	625.00
Water Valves - Adjust & Set to Grade	Forty-five dollars and no cents per each	45.00
Alternate Total	Forty-eight thousand, six hundred and eighty dollars and no cents	$48,680.00
Grand Total	Two hundred and fourteen thousand, six hundred and eleven dollars and fifty-five cents	$214,611.55

The Contractor will furnish immediately a certificate from the Industrial Board of the State of Indiana that he has complied with Sections 5, 68, 69 of the Workmen's Compensation Act, approved March 14, 1929, in accordance with Section 14 of the Compensation Act (Acts 1929, page 545, being I.C. 22-3-2-1 et. seq.).

A copy of General Ordinance No. G-34-78 (as amended) concerning discriminating in employment under municipal contracts, is attached and incorporated herein by reference.

BILL NO. G-78-10-41 (as amended)

GENERAL ORDINANCE NO. G-34-78 (as amended)

AN ORDINANCE amending Chapter 15 of the Code of the City of Fort Wayne, Indiana of 1974.

BE IT ENACTED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That Section 15-13 "Employment under Municipal Contract," Article III, Chapter 15 of the Code of the City of Fort Wayne, Indiana of 1974 is amended to be and read as follows, to wit:

"Sec. 15-13 Same - Under Municipal Contract.

15-13-1 Definitions. As used in this Section, the following words have these meanings:

a. The terms "Discriminates," "discriminating," "discriminatory" mean and include:

(1) to promote segregation or separation in any manner, to treat any person differently, or to exclude from or fail or refuse to extend to any person equal opportunities with respect to hiring, termination, compensation, or other terms, conditions or privileges of employment, because of the race, religion, sex, color, national origin or handicap of any such person;

(2) also, to fail to make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped employee;

(3) also, to fail to make reasonable accommodation to the religious observance or practice of any employee or prospective employee unless the employer can demonstrate that the accommodation would impose an undue hardship on the conduct of the employer's business;

(4) also, to make, print or publish, or cause to be made, printed or published any notice, statement, or advertisement with respect to employment that indicates a preference, limitation, specification or discrimination based on race, sex, religion, color, national origin or handicap;

(5) the following practices are not included in the meaning of "discrimination":

(a) for any not-for-profit association, incorporated or otherwise, organized exclusively for fraternal or religious purposes, to devote its resources to its own religion or denomination, or to give employment preference to its own members,

(b) for any not-for-profit association, incorporated or otherwise, established for the purpose of offering or providing education, training or other social services and benefits to handicapped persons, to devote its resources to such handicapped persons with respect to such education, training or social services and benefits.

b. The term "handicap" means and includes:

(1) any physical or mental impairment which substantially limits one or more of a person's major life activities; or

(2) a record of such an impairment, and includes,

(3) a person who is regarded as having such an impairment; provided that,

(4) this term does not include drug or alcohol abuse or addiction.

c. The term "obstruct" means and includes the actions of any person knowingly obstructing the fair and lawful enforcement of this Article of this Chapter by coercing or intimidating any complainant or prospective complainant, or any witness to any act of discrimination as defined herein, after such person has received actual notice of a discrimination charge or has been served notice of a complaint filed.

d. The term "retaliate" means and includes the actions of any person in discriminating against any other person with regard to, or denying any other person access to or opportunities in employment, because any such other person has opposed any practice made unlawful by this Article of this Chapter, or because such other person has made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under this Article of this Chapter.

15-13-2 Mandatory Covenants. Every contract for or on behalf of the City of Fort Wayne for the construction, alteration or repair of any public building or public work or the performance of any other work or service shall contain provisions by which the contractor agrees, as follows:

a. That in the performance of work under such contract or any subcontract thereunder, the contractor, subcontractor, nor any person acting on behalf of such contractor or subcontractor, will not discriminate against any person who is qualified and available to perform the work to which the employment relates.

b. That such contractor, subcontractor, nor any person acting on behalf of such contractor or subcontractor will not obstruct the enforcement of this Article of this Chapter.

c. That such contractor, subcontractor, nor any person acting on behalf of such contractor or subcontractor will not retaliate against any person.

15-13-3 Enforcement. Enforcement of this Article of this Chapter shall be through order of the Board of Public Works, in the following manner:

a. Whenever any member of the Board of Public Works, or whenever the Affirmative Action Officer who is assigned to help watch over public contracts has reason to believe that any of the provisions hereof have been violated, the matter may be referred to the Metropolitan Human Relations Commission for investigation and initiation of discrimination charges against the contractor or subcontractor. Cases over which the Commission has no jurisdiction shall be investigated by said Affirmative Action Officer.

b. A final order of the Metropolitan Human Relations Commission shall be forwarded to the Board of Public Works, which may invoke one of the remedies set forth in Sub Section 15-13-4 hereof. If it is a matter over which the Metropolitan Human Relations Commission has no jurisdiction, the Board of Public Works shall conduct a hearing to determine whether there has been a breach of this Article of this Chapter. In so doing, the Board may call upon the Commission for consultation.

15-13-4 Remedies. Upon finding that a contractor or sub-contractor or any person acting on behalf of such contractor or subcontractor has violated a provision or provisions of this Article of this Chapter, whether discriminating, obstructing, retaliating, or otherwise, the Board of Works may:

a. Deduct from the amount payable to the contractor by the City of Fort Wayne under such contract a penalty of no less than ten dollars ($10.00) per day, per violation, nor more than one thousand dollars ($1,000.00) per day, per violation. Each day on which a continuing violation exists, shall be deemed a separate offense; or,

b. The Board of Works may cancel or terminate the contract, and all money due or to become due thereunder may be forfeited, for a second or any subsequent violation of this article of this Chapter.

SECTION 2. That Chapter 15, Article III, of the Code of the City of Fort Wayne, Indiana of 1974 is further amened by adding thereto a new section 15-13A, which shall be and read as follows, to wit:

"Sec. 15-13A. A verbatim copy of Sec. 15-13 may be attached as an exhibit to and incorporated in and made a part of any contract made by or on behalf of the City of Fort Wayne, Indiana for any public work; which shall constitute compliance with Sec. 15-13-2."

IMPROVEMENT RESOLUTION

FOR STREETS

NO. 5970 - 1983

RESOLVED BY THE BOARD OF PUBLIC WORKS OF THE CITY OF FORT WAYNE, INDIANA, that it is deemed necessary to improve by resurfacing and restoring pavement as designated on the following streets to be known as:

1. ST. MARYS AVENUE - From the north curb line of State Blvd. to the south pavement line of Goshen Avenue.

2. FOURTH STREET - From the west curb line of Franklin Avenue to the east curb line of Rumsey Avenue.

3. VAN BUREN STREET - From the south curb line of Berry Street to the north curb line of Jefferson Blvd.

4. WEBSTER STREET - From the south curb line of Lewis Street to the north curb line of Baker Street.

5. MAIN STREET - From the west curb line of Ewing Street to the west property line of Broadway.

6. SOUTH WASHINGTON RD. - From the south curb line of North Washington Road to the northeast curb line of Hawthorn Road.

7. BELLE VISTA BLVD. - From the northwest pavement line of Old Trail Road to the west property line of Kimberley Road.

8. FERNWOOD AVENUE - From the north pavement line of Lower Huntington Road to the north curb line of Dalevue Drive.

9. DALEVUE DRIVE - From the west property line of House #3413 to its western terminus.

with Hot Asphalt Binder (as per design mix formula)
with Hot Asphalt Top Surface (as per design mix formula)

All in accordance with the specifications on file in the office of the Department of Public Works of said City; and such improvement is now ordered.

It is hereby found by said Board of Public Works that all benefits accruing hereunder will be to the general public of the City of Fort Wayne and that no special benefits will accrue to any property owner adjoining said improvement or otherwise assessable under said improvement. The cost of said improvement shall be paid by the City of Fort Wayne, Indiana from monies appropriated from LR&S Funds.

ADOPTED, this ____ day of ____________, 1983.

ATTEST: Helen V. Gochenaur
Secretary & Clerk

BOARD OF PUBLIC WORKS
CITY OF FORT WAYNE, INDIANA

Stephen A. Bailey, Chairman

Roberta Anderson-Staten, Member

Betty R. Collins
Betty R. Collins, Member

SS-SEMI SKILLED
US-UNSKILLED
IF-INDUSTRIAL FUND
PW-PER WEEK

We, the undersigned committee, being appointed to prepare a schedule of the prevailing wages to be paid in connection with, *All Construction & Maintenance contracts awarded by the Board Of Works, City of Fort Wayne, Indiana for the months of April, May & June 1983.*
in compliance with the provisions of CHAPTER # 319 of the acts of the GENERAL ASSEMBLY of INDIANA, 1935, have established a schedule as hereinafter set forth for the following trade to wit;

TRADES OR OCCUPATION		CLASS	RATE PER HR.	H&W	PEN	VAC	APP.	MISC.
ASBESTOS WORKER	6-30-83	S	16.85	70¢	1.45			1¢ if
BOILERMAKER	8-31-83	S	18.83	1.47½	1.90		3¢	
BRICKLAYER	5-31-85	S	14.41	1.05	.85		2¢	16¢ if
CARPENTER (BUILDING)	5-31-85	S	13.40	.70	6%		2¢	4¢ if
(HIGHWAY)	1-1-84	S	13.31	1.00	1.00		5¢	4¢ if
CEMENT MASON	5-31-83	S	12.85	.75	.80		2¢	
ELECTRICIAN	5-31-84	S	16.55	.85	3%+90¢			1% if
ELEVATOR CONSTRUCTOR		S	16.11	1.34½	1.08½	8%	3½¢	
GLAZIER	9-30-83	S	15.44		.70	.40	6¢	37¢holida
IRON WORKER	5-31-83	S	15.00	1.10	2.00			2.95 annu 2¢ if
LABORER (BUILDING)	5-31-85	S-SS US	10.20-11.20	1.00	.75		9¢	
(HIGHWAY)	*1-31-84*	S-US-SS	10.43-11.28	1.05	.75		4¢	
(SEWER)	*1-31-83*	S-US-SS	9.75-10.60	1.00	.75		9¢	
LATHER	5-31-83	S	13.40	.70	6%		2¢	4¢ if
MILLWRIGHT & PILEDRIVER	5-31-85	S	13.80	.70	6%		2¢	4¢ if
OPERATING ENGINEER (BUILDING)	5-31-83	S-SS US	11.30-16.75	1.00	1.10		10¢	
(HIGHWAY)	1-13-84	S-SS-US	11.11-14.99	1.00	1.10		10¢	
(SEWER)	3-31-82	S-SS-US	9.75-12.94	.75	1.00		10¢	
PAINTER	5-31-84	S	12.75-14.75	1.05	1.00		12¢	14¢ Misc.
PLASTERER	5-31-83	S	13.48	.60	.80			
PLUMBER & STEAMFITTER	6-1-84	S	16.48	1.00	1.80		7¢	7¢ if
MOSAIC & TERRAZZO GRINDER	5-31-85	S	9.50-11.50					
ROOFER	5-31-85	S	13.90		.50			
SHEETMETAL WORKER	*5-31-83*	S	17.66	1.01	1.26		19¢	19¢ if 60¢ sasmi
TEAMSTER (BUILDING)	5-31-83	S-SS US	13.00½/13.45½	pw 45.50	pw 51.00			
(HIGHWAY)		S-SS-US	12.21/12.81	41.50pw	51.00pw			

If any CLASSIFICATIONS ARE OMITTED IN THE ABOVE SCHEDULE, THE PREVAILING WAGE SCALE SHALL BE PAID. The above and forgoing shall shall be the minimum prevailing wage scale for this project as set by the wage scale committee, but in no way shall it prevent the contractor or sub-contractor from paying a higher rate of wages than set out in the schedule of wages on file.

DATED THIS *31st* DAY OF *MARCH* . 19*83*

Sue Stone
REPRESENTING GOVERNOR, STATE OF INDIANA

REPRESENTING THE AWARDING AGENT.

Thomas E. Morningstar
REPRESENTING STATE A.F.L. & C.I.O.

EQUAL OPPORTUNITY CLAUSE

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally

assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sactions for noncompliance: PROVIDED, HOWEVER, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

KNOW ALL MEN BY THESE PRESENTS, that we MOELLERING CONSTRUCTION CO., INC. as Principal, and the UNITED PACIFIC INSURANCE COMPANY, a corporation organized under the laws of the State of WASHINGTON, and duly authorized to transact business in the State of Indiana, as Surety, are held firmly bound unto the City of Fort Wayne, Indiana, an Indiana Municipal Corporation in the sum of TWO HUNDRED AND FOURTEEN THOUSAND, SIX HUNDRED AND ELEVEN DOLLARS AND FIFTY-FIVE CENTS --------------------

($ 214,611.55-----------), for the payment whereof well and truly to be made, the Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents. The condition of the above obligation is such that

WHEREAS, the Principal did on the 22nd day of June, 1983, enter into a contract with the City of Fort Wayne to construct

Improvement Resolution No. 5970-83 (1983 ASPHALT RESURFACING, GROUP 2)

To improve by resurfacing and restoring pavement as designated on the following streets: (1) St. Marys Avenue; (2) Fourth Street; (3) Van Buren St.; (4) Webster St.; (5) Main Street; (6) South Washington Rd.; (7) Belle Vista Blvd.; (8) Fernwood Avenue; (9) Dalevue Drive --

***See Improvement Resolution 5970-83 for limits of construction ***

at a cost of $ 214,611.55-----------, according to certain plans and specifications prepared by or approved by the City.

WHEREAS, the grant of authority by City to so construct such improvement provides:

1. That said improvement shall be completed according to said plans and specifications, and contractor shall warrant and guarantee all work, material, and conditions of the improvement for a period of three (3) years from the date of final acceptance in writing by the Owner;
2. There shall be filed with the City, within thirty (30) days after completion, a Completion Affidavit;
3. Said Principal is required to agree to make such adjustments, modifications, and repairs as required by the City within thirty (30) days after notice.

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications.

NOW THEREFORE, if the principal shall faithfully perform all of the terms and conditions required of it by the contract and shall for three (3) years after acceptance of said improvement by City warrant and guarantee said improvement and shall indemnify the City for all loss that City may sustain by reason of the Principal's failure to comply with any of the terms of the authorization, then this obligation shall be void, otherwise it shall remain in full force and effect.

MOELLERING CONSTRUCTION COMPANY, INC.
(Contractor)

BY: [signature]

ITS: CARL W. MOELLERING PRESIDENT

ATTEST: [signature]

DONALD R. HILLE

Sec'y - Treas.
(Title)

UNITED PACIFIC INSURANCE COMPANY
Surety

*BY: [signature]
Authorized Agent ROGER CURRY
(Attorney-in-Fact)

*If signed by an agent, power of attorney must be attached

ATTACH POWER OF ATTORNEY

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

------------------- MOELLERING CONSTRUCTION COMPANY, INC. ------------------------
(Name of Contractor)

--------------- 4700 INDUSTRIAL ROAD, FORT WAYNE, INDIANA ----------------------
(Address)

a **CORPORATION**, hereinafter called Principal,
(Corporation, Partnership or Individual)

and **UNITED PACIFIC INSURANCE COMPANY**
(Name of Surety)

and duly authorized to transact business in the State of Indiana, hereinafter called Surety, are held and firmly bound unto the City of Fort Wayne, an Indiana Municipal Corporation in the penal sum of TWO HUNDRED AND FOURTEEN THOUSAND, SIX HUNDRED AND ELEVEN DOLLARS AND FIFTY-FIVE CENTS -------------------------------- for the payment whereof well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the Owner, dated the 22nd day of June, 1983, for the construction of:

Improvement Resolution No. 5970-83 (1983 ASPHALT RESURFACING, GROUP 2)

To improve by resurfacing and restoring pavement as designated on the following streets: (1) St. Marys Avenue; (2) Fourth Street; (3) Van Buren St.; (4) Webster St.; (5) Main Street; (6) South Washington Rd.; (7) Belle Vista Blvd.; (8) Fernwood Avenue; (9) Dalevue Drive --

***See Improvement Resolution 5970-83 for limits of construction ***

at a cost of TWO HUNDRED AND FOURTEEN THOUSAND, SIX HUNDRED AND ELEVEN DOLLARS AND FIFTY-FIVE CENTS -- ($ 214,611.55----------------), all according to Fort Wayne Street Engineering Department plans and specifications.

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications, and

WHEREAS, no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by subconstructor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, this instrument is executed in THREE (number) counterparts, each one of which shall be deemed an original, this 22nd day of June, 19 83.

(SEAL)

ATTEST:

(Principal) Secretary
DONALD R. HILLE

MOELLERING CONSTRUCTION COMPANY, INC.
Principal

BY
CARL W. MOELLERING
PRESIDENT
(Title)

P. O. BOX 11168
FORT WAYNE, INDIANA 46856
(Address)

Witness as to Principal
P. O. Box 11168
Fort Wayne, Indiana 46856
(Address)

UNITED PACIFIC INSURANCE COMPANY
Surety
BY
Attorney-in-Fact ROGER CURRY
(Authorized Agent)

ROGER CURRY, INSURANCE
P. O. BOX 666
BLOOMINGTON, INDIANA 47402
(Address)

Elizabeth Newton
Witness as to Surety
P. O. Box 666
Bloomington, IN 47402
(Address)

NOTE: Date of Bond must not be prior to date of Contract.
If Contractor is Partnership, all partners should execute bond.

ATTACH POWER OF ATTORNEY

BILL NO. S-83-07-15

REPORT OF THE COMMITTEE ON PUBLIC WORKS

WE, YOUR COMMITTEE ON Public Works TO WHOM WAS REFERRED AN ORDINANCE approving a contract by the City of Fort Wayne by and through its Board of Public Works and Moellering Construction Company, Inc., for Improvement Res. #5970-83 (1983 Asphalt Resurfacing, Group 2)

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE Do Pass PASS.

SAMUEL J. TALARICO, CHAIRMAN — Samuel J. Talarico

VICTURE L. SCRUGGS, VICE CHAIRMAN — Victure Scruggs

MARK E. GiaQUINTA — Mark E. GiaQuinta

PAUL M. BURNS — Paul M. Burns

ROY J. SCHOMBURG — Roy J. Schomburg

Concurred in 7-26-83 Sandra E. Kennedy

Admn. Appr.

TITLE OF ORDINANCE Contract for Improvement Res. 5970-83 (1983 Asphalt Resurfacing, Group 2)

DEPARTMENT REQUESTING ORDINANCE Board of Public Works S-83-07-15

SYNOPSIS OF ORDINANCE Improvement Res. #5970-83 (1983 Asphalt Resurfacing, Group 2) if for resurfacing and restoring pavement as designated on the following streets: (1) St. Marys Avenue; (2) Fourth Street; (3) Van Buren St.; (4) Webster St.; (5) Main Street; (6) South Washington Rd.; (7) Belle Vista Blvd.; (8) Fernwood Ave. (9) Dalevue Drive Moellering Construction Company, Inc., is the Contractor.

PRIOR APPROVAL 4/19/83

EFFECT OF PASSAGE Asphalt improvement on the above streets.

EFFECT OF NON-PASSAGE

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) $214,611.55

ASSIGNED TO COMMITTEE